

IN THE SENATE

SENATE BILL NO. 1147

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONTRACTS FOR DESIGN-BUILD HIGHWAY PROJECTS; AMENDING SECTION 40-105, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 40-113, IDAHO CODE, TO DEFINE A TERM; AND AMENDING CHAPTER 9, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-904, IDAHO CODE, TO PROVIDE PROCEDURES FOR AWARDING DESIGN-BUILD CONTRACTS FOR CERTAIN HIGHWAY PROJECTS, TO PROVIDE FOR RULES, TO PROVIDE THAT THE DEPARTMENT SHALL NOT ENTER INTO ANY DESIGN-BUILD CONTRACTS PRIOR TO PROMULGATION OF RULES, TO PROVIDE FOR CERTAIN LIMITS RELATING TO THE USE OF DESIGN-BUILD CONTRACTS, AND TO PROVIDE THAT A PERCENTAGE OF EACH CONTRACT BE PERFORMED BY THE DESIGN-BUILD FIRM AWARDED THE CONTRACT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 40-105, Idaho Code, be, and the same is hereby amended to read as follows:

40-105. DEFINITIONS – D. (1) "Department" means the Idaho transportation department.

(2) "Design-build contract" means a single contract between the department and a design-build firm to furnish the engineering and related design services, labor, material, supplies, equipment and construction services for the highway project.

(3) "Design-build firm" means a sole proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation or legal entity qualified to design and build highway projects.

(4) "Design-build highway project" means the procurement of both the design and construction of a project in a single contract with a design-build firm capable of providing the necessary design services and construction.

(5) "Director" means the director of the Idaho transportation department.

~~(3)~~ (6) "Displaced person" means any individual, family, business or farm operation which moves from real property or moves personal property from real property acquired for a program or project of a state or local agency, in whole or in part, or as the result of a written order of an acquiring agency to vacate real property for a program or project of a state or local agency, and, solely for the purposes of section 40-2004, Idaho Code, as a result of a written order of an acquiring agency to vacate other real property, on which a person conducts a business or farm operation, for a program or project of any state or local agency.

(47) "Draw" means making a cash demand on the proceeds of transportation bonds or notes issued by the Idaho housing and finance association as it pertains to section 40-718, Idaho Code.

1 (58) "Dump" means any place or area, not operated as a business, where junk is
2 deposited, stored or kept.

3 SECTION 2. That Section 40-113, Idaho Code, be, and the same is hereby amended to
4 read as follows:

5 40-113. DEFINITIONS – L. (1) "Lawfully maintained" means a sign maintained on
6 private land in accordance with state law and with the consent or acquiescence of the owner, or
7 his agent, of the property upon which the sign is located.

8 (2) "Licensed contractor" means a person licensed under the provisions of chapter 19,
9 title 54, Idaho Code.

10 (3) "Local highway technical assistance council" means the public agency created in
11 chapter 24, title 40, Idaho Code.

12 (34) "Local highway jurisdiction" means a county with jurisdiction over a highway
13 system, a city with jurisdiction over a highway system, or a highway district.

14 SECTION 3. That Chapter 9, Title 40, Idaho Code, be, and the same is hereby amended
15 by the addition thereto of a NEW SECTION, to be known and designated as Section 40-904,
16 Idaho Code, and to read as follows:

17 40-904. CONTRACTS – DESIGN-BUILD. (1) While design/bid/build is the preferred
18 method of contracting, the department may select design-build firms and award contracts for
19 design-build highway projects. Design-build highway projects shall be of appropriate size and
20 scope as determined by the board to encourage maximum competition and participation by
21 qualified design-build firms. Design-build contracting procedures may be used for projects only
22 after the board determines that awarding a design-build contract will serve the public interest.
23 The department shall work with representatives of the Idaho associated general contractors
24 and the American council of engineering companies of Idaho in promulgating rules regarding
25 the solicitation and award of design-build contracts. The department shall not enter into any
26 design-build contracts prior to promulgation of such rules.

27 (2) (a) No more than twenty percent (20%) of the department's annual highway
28 construction budget for the state transportation improvement program shall be used for
29 design-build contracts following the promulgation of rules implementing the solicitation
30 and award of design-build contracts.

31 (b) Beginning with the third year following promulgation of the rules referenced in
32 subsection (2)(a) of this section, and for every year thereafter, no more than twenty-five
33 percent (25%) of the department's highway construction budget shall be used for
34 design-build contracts.

35 (3) No less than thirty percent (30%) of any design-build contract awarded shall be
36 self-performed by the design-build firm awarded such contract.